



REMARKS

The application has been amended to correct minor informalities so as to place the application, as a whole, into a prima facie condition for allowance. Great care has been taken to avoid the introduction of new subject matter into the application as a result of the foregoing modifications.

In the Office Action dated July 15, 2003, the Examiner objected to the title. Accordingly, Applicant has amended the title as suggested by the Examiner. Accordingly, it is respectfully requested that the objection to the Specification be withdrawn.

In the Office Action dated July 15, 2003, the Examiner also rejected Claim 19 under 35 U.S.C. §112 as being indefinite, as lacking insufficient antecedent basis for dependency upon the nonexistent Claim. Accordingly, Applicant has remedied the antecedent basis problem and has amended the dependency of Claims 18 and 19 for consistency. Accordingly, as Applicant has amended the claims as suggested by the Examiner, it is respectfully requested that the Examiner's rejection under 35 U.S.C. §112 be withdrawn and reconsideration be granted to the instant application.

The Examiner has also rejected Claims 1-4, 11-12 and 17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,957,007 to Thomas. Accordingly, Applicant has amended the claims to include the limitation of a gas reservoir in fluid communication with the means for converting pressurized fluid into mechanical power. Conversely, Thomas specifically teaches against such a combination, specifically detailing the use of a first stage regulator to reduce pressures from 3,000 to 4,500 psi down to 120 psi prior to flowing the fluid through the supply hose to reach the manifold. Thomas, column 13, lines 42-53. While such a construction allows

high-pressure tanks to be used in association with a low pressure motor, such as that described in Thomas, such a construction has several disadvantages. Two major disadvantages, which are addressed by Applicant's invention, include the utilization of a smaller, lighter and less expensive regulator downstream from the power converter, and the capturing of a greater amount of mechanical energy from the high-pressure fluid. Neither of these advantages are taught nor suggested by Thomas, as such a construction would specifically defeat the primary teaching of Thomas. Thomas teaches the utilization of a low-pressure motor, and the constant speed and energy production associated with a constant pressure input. Modifying the Thomas device to include Applicant's new limitations would directly contravene this primary, specific teaching of Thomas.

Indeed, even if a "hybrid" device were manufactured which utilized the teachings of Thomas with a motor in fluid communication with the pressurized fluid reservoir, the pressure would destroy the motor. Even if a more expensive high-pressure motor, neither taught nor suggested by Thomas were employed, without the use of a regulator, the motor would produce a variable output, producing a very broad spectrum of speeds, with either the high end, low end, or both being unsuitable for use in the propulsion of a diver. Accordingly, not only does Thomas neither teach nor suggest direct fluid communication between a pressurized gas reservoir and a motor, but Thomas teaches directly against such a combination. Accordingly, it is respectfully requested that, in light of Applicant's newly applied foregoing amendments, the rejections under 35 U.S.C. §102(b) be withdrawn, and reconsideration be granted to the instant application.

The Examiner has also rejected Claims 5 and 18-20 under 35 U.S.C. §103(a) as being unpatentable over Thomas in view of U.S. Patent No. 3,702,938 to Garnier, has rejected Claims 6-9 and 14-16 as being obvious over Thomas in view of U.S. Patent No. 6,412,280 to Simonds,

and has rejected Claims 10, 13 and 17 as being unpatentable over Thomas in view of Simonds, and further in view of Garnier. Applicant respectfully submits that the foregoing amendments define Applicant's invention over the Thomas, Garnier and Simonds references, either taken alone or in combination. Applicant respectfully submits that there is neither teaching nor suggestion in any of the references for either providing the Thomas apparatus with an electric generator, or for providing the Garnier device with a pressurized gas to drive the system. Indeed, the references teach in direct contravention to such a "hybrid" combination in either direction. First, Thomas teaches directly against heavy weight and bulky size associated with lead acid storage batteries. Thomas, therefore, teaches directly against the use of a heavy, bulky electric generator, such as that described in Garnier, especially as no benefit is either taught or suggested by any of the references for the use of electrical generation in association with an air-powered, water propulsion method and apparatus such as that taught by Thomas.

Similarly, combining the teachings of Thomas into Garnier is inapposite to the teachings of the prior art. Indeed, if it were attempted to operate the Garnier device with air power, such as that taught by Thomas, the air would simply flow around the rotating mass (4) of Garnier, and fail to produce any power whatsoever. Similarly, as Thomas specifically teaches against the addition of heavy weight and bulk to the apparatus, and as Garnier specifically teaches energy conservation yield or output is of no great concern, it would not be obvious to look to a high-efficiency motor such as that described in Simonds to produce a three-way "hybrid" device.

Additionally, Garnier specifically teaches against the use of motors utilizing turbine shafts or blades, as being much too fragile to be moved along by a fluid that could pick up sludge or mud. (Garnier, column 1, lines 28-37). Accordingly, Applicant respectfully submits that Applicant's claims, as amended, patentably distinguish over the prior art and that the prior art

teaches against the combination of elements in Applicant's newly amended claims. Accordingly, it is respectfully requested that the Examiner withdraw the rejection of Claims 5-10 and 13-17 under 35 U.S.C. §103(a), and give reconsideration to the application.

Applicant respectfully submits that as newly amended, all claims remaining in the application, namely Claims 1-20, are now in condition for allowance, patentably distinguishing over the cited prior art. Applicant, therefore, requests reconsideration of the application and passage to allowance of all claims. If, for some reason Applicant's foregoing amendments are not deemed sufficient to overcome all of the Examiner's objections and rejections, the Examiner is respectfully urged to call the undersigned at 515-288-9263, in an effort to determine claim language which will be sufficient to pass the application toward registration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brett J. Trout", is written over a horizontal line.

By
Brett J. Trout, Reg. No. 37,250
300 S.W. 5th, Suite 222
Des Moines, IA 50309